

Atty. Dkt. No. 029815-0103

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Sweeney, Patrick J.

Title: VERTEBRAL PROSTHESIS

Appl. No.: 10/686,998

Filing Date: 10/16/2003

Examiner: Barrett, Thomas C.

Art Unit: 3738

DECLARATION UNDER 37 C.F.R. §1.131

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

I, Patrick J. Sweeney, state and declare that:

1. I am the inventor of all of the claims of the above-referenced patent application.
2. Prior to September 15, 2003, I conceived in the United States the invention described and claimed in at least claims 1-5, 7, 9, 61, and 67-69 of the above-referenced application.
3. Prior to September 15, 2003, I sent a letter by electronic mail to my patent attorney containing drawings of various embodiments of the invention claimed in the above-referenced patent application.
4. A copy of the letter and drawings is attached hereto as Exhibit A. Portions of Exhibit A have been redacted, including the mailing date of the letter. The mailing date of the letter is prior to September 15, 2003.

5. The drawings of Exhibit A provide evidence of the conception of the invention claimed in the above-referenced application, and specifically the invention claimed in claims 1-5, 7, 9, 61, and 67-69.

6. On October 3, 2003, Jeffrey S. Gundersen sent a draft of the above-referenced patent application to me as indicated in the cover letter attached hereto as Exhibit B.

7. On October 13, 2003, Jeffrey S. Gundersen sent a second draft of the above-referenced application to me as indicated in the cover letter attached hereto as Exhibit C.

8. On October 16, 2003, the above-referenced patent application was filed with the United States Patent and Trademark Office.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Date 10/28/05
By Patrick J. Sweeney
Patrick J. Sweeney

Manning, Michelle

Blumberg No. 5118

EXHIBIT

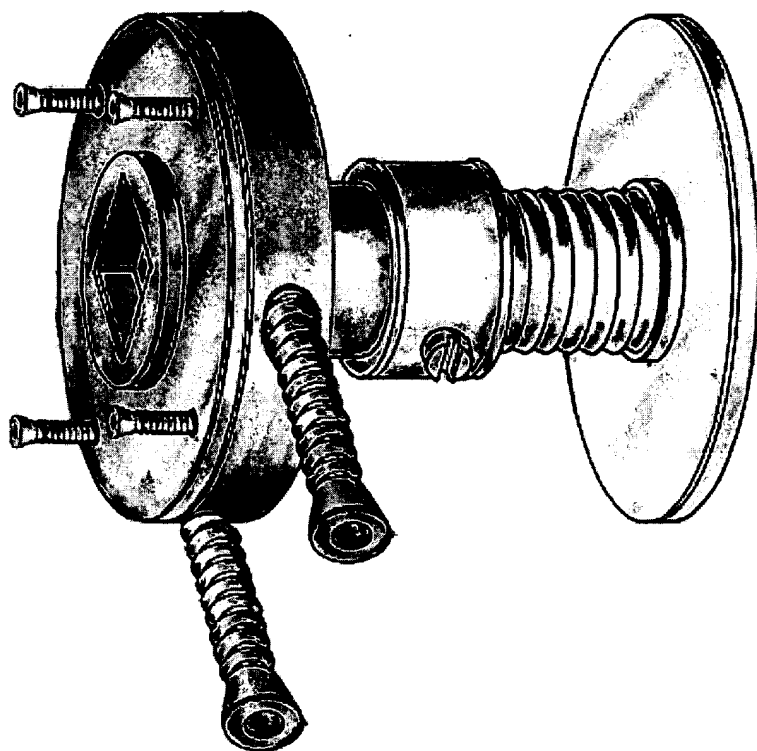
A

From: PJPSweeney@aol.com
Sent:
To: MManning@foleylaw.com; MKassel@foleylaw.com
Subject: vertebral prosthesis

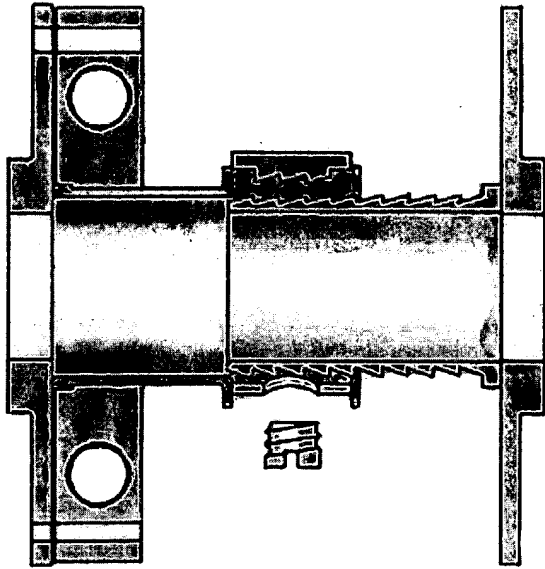
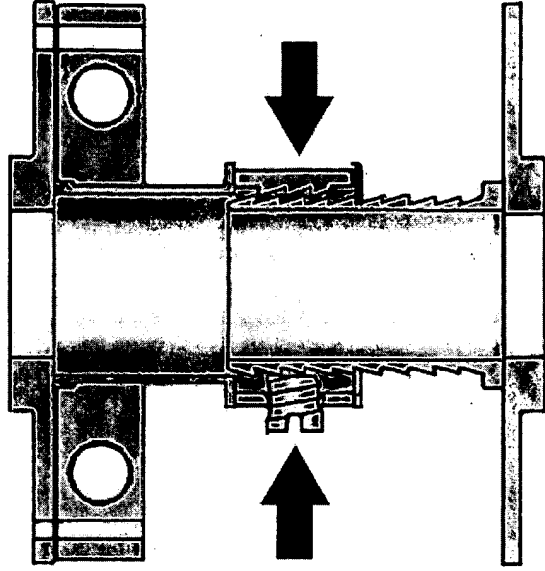


Final vert
drawings.ppt (666 K..

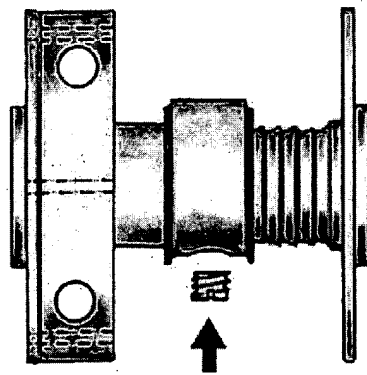
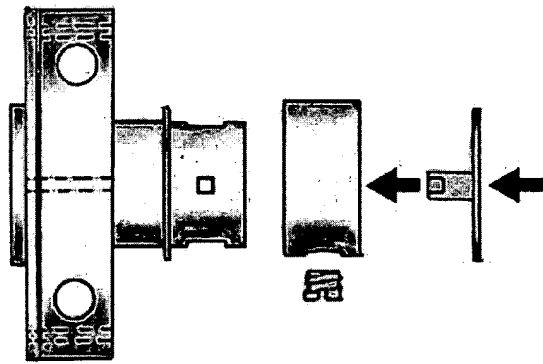
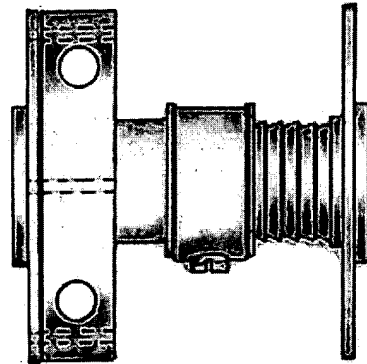
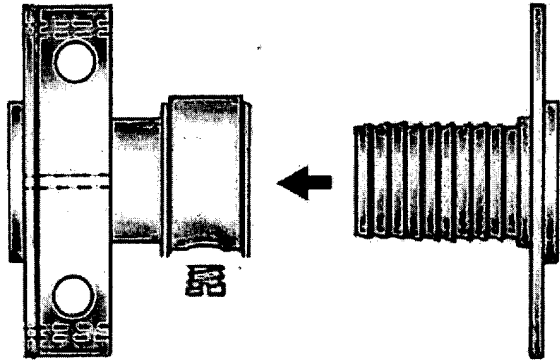
Hi, Attached are the drawings.



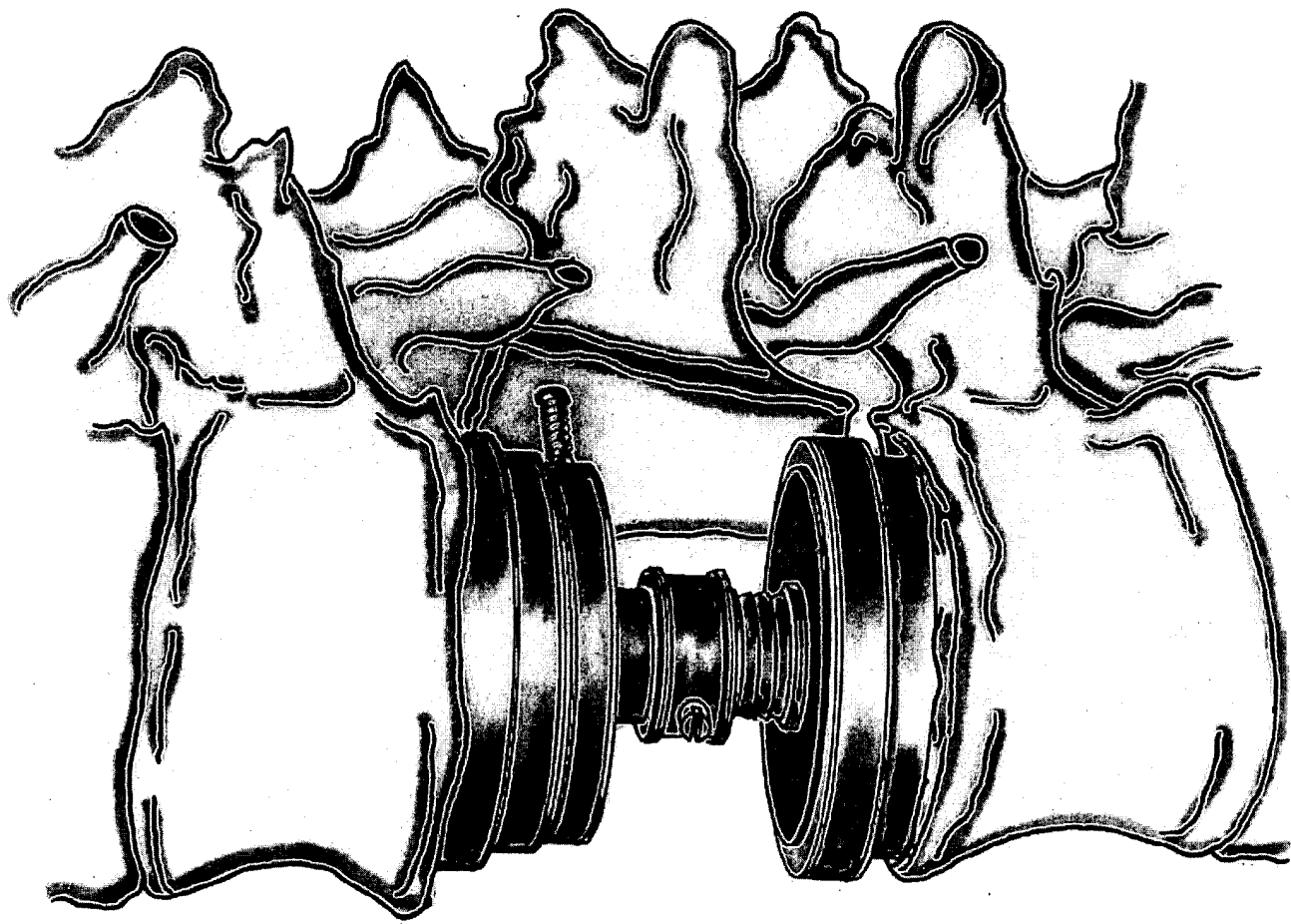
General view with
new screws



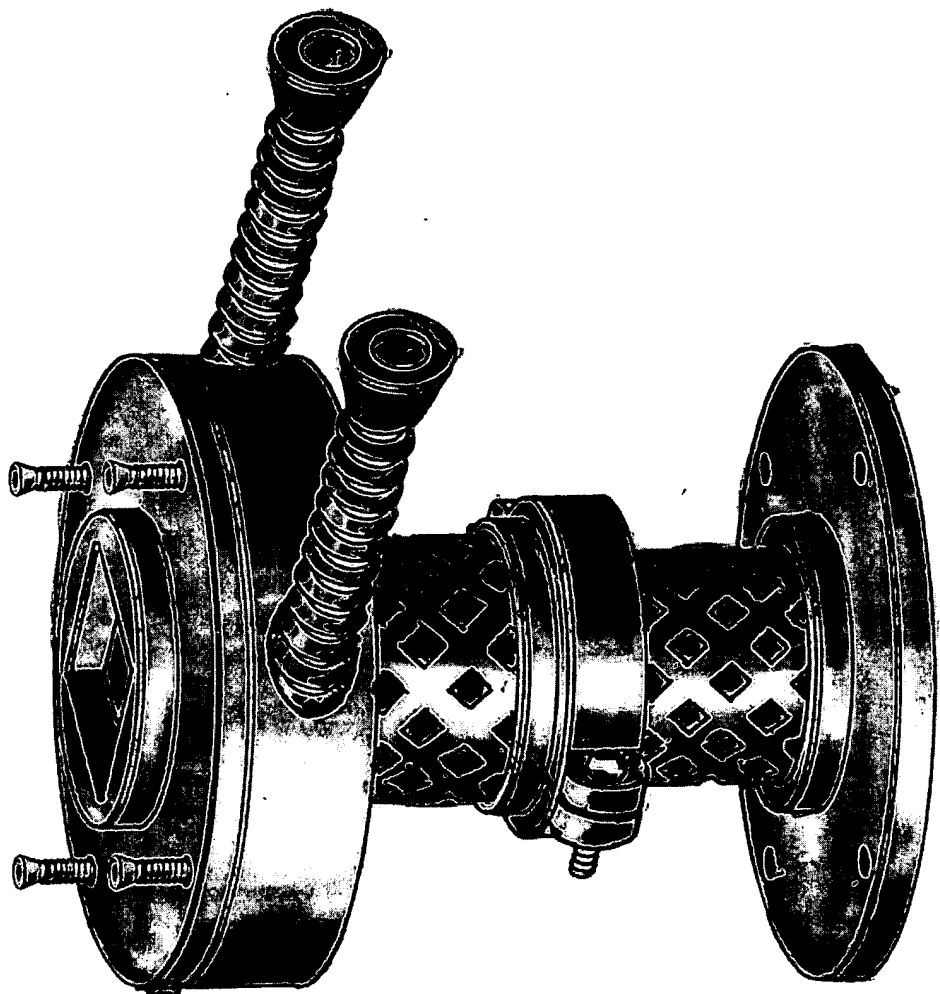
Interior view with
wider retention



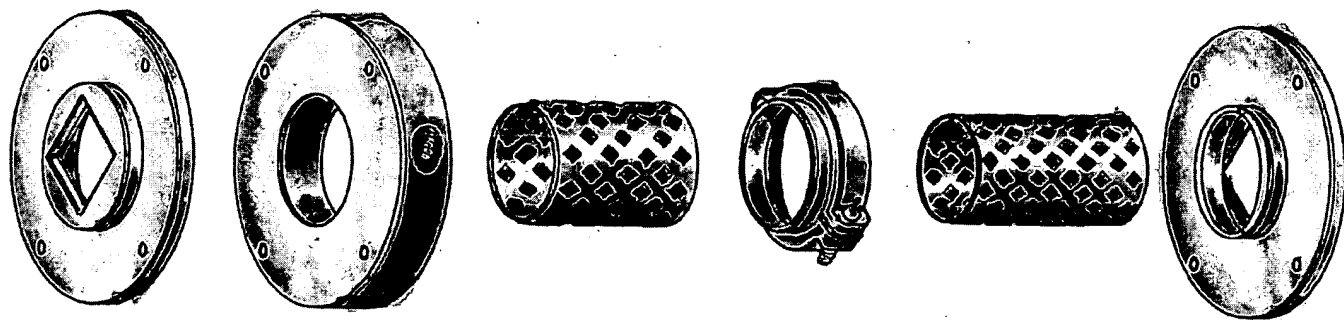
Assembling the unit
(wider retention)



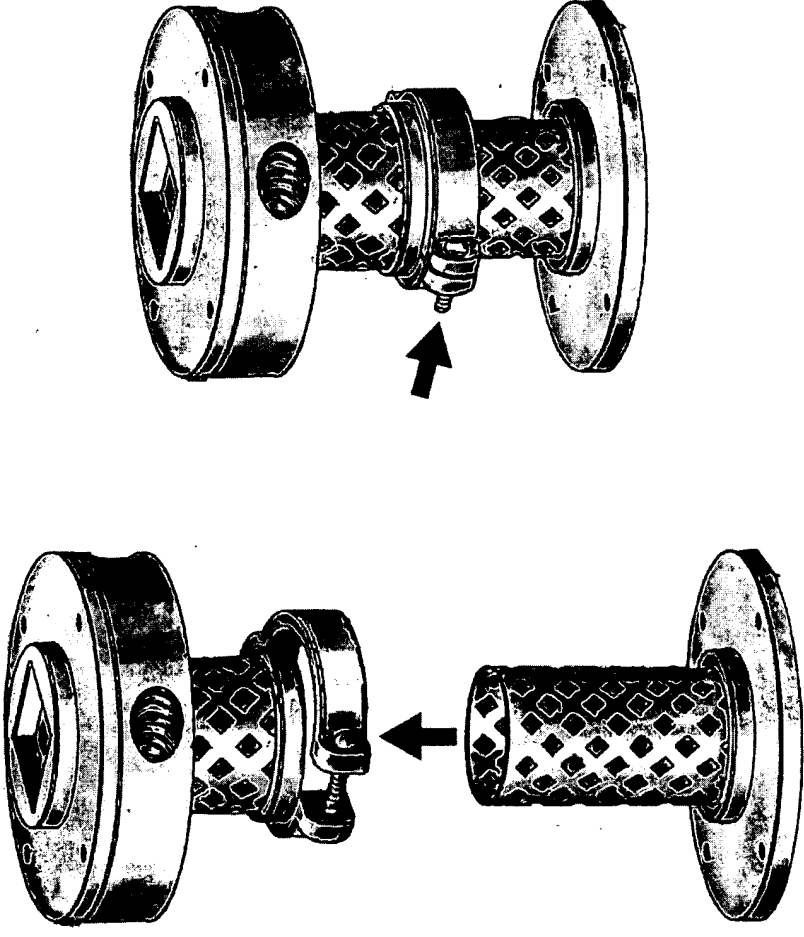
Init inserted
(with double discs)



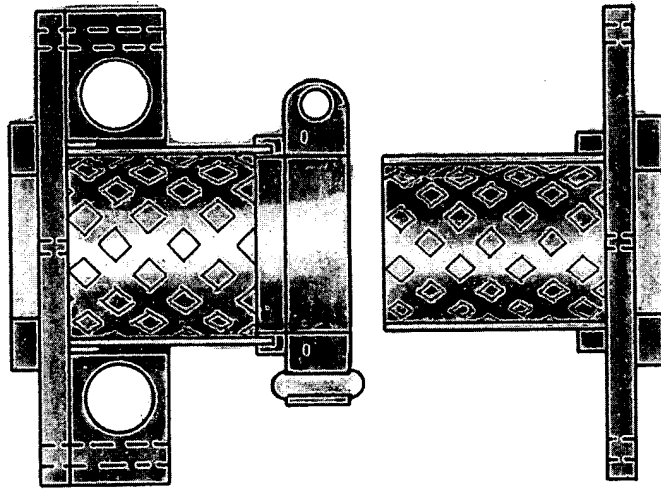
Mesh version



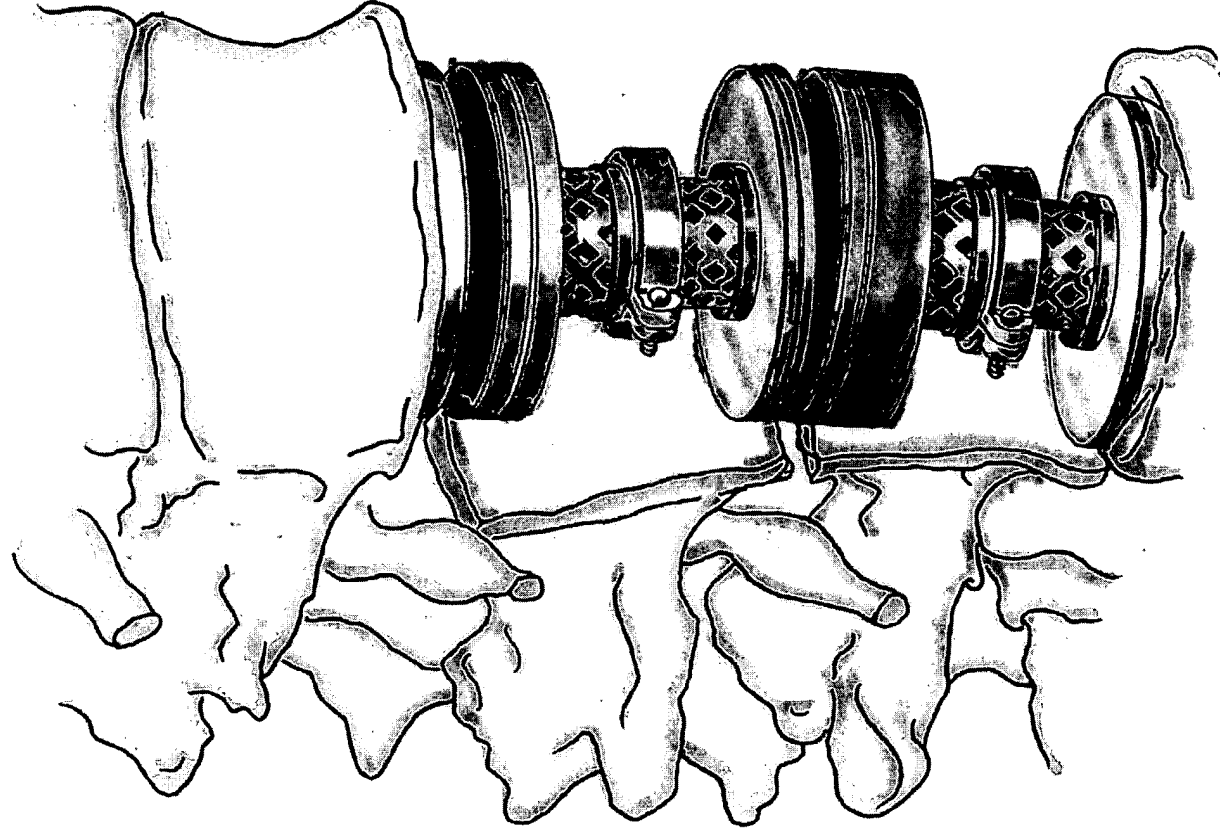
Mesh exploded view



Mesh locking mechanism



Mesh interior view



Mesh version
inserted in spine

Gundersen, Jeffrey S.

Blumberg No. 5110

EXHIBIT

B

From: Gundersen, Jeffrey S.
Sent: Friday, October 03, 2003 12:44 PM
To: PJPSweeney@aol.com
Cc: Kassel, Mark A.
Subject: Draft Application for the Vertebral Prosthesis (029815-0103)

CONFIDENTIAL AND PRIVILEGED

Pat,

Attached for your review and comment is a draft version of the patent application for the Vertebral Prosthesis. Please review the draft application, including the specification, claims, and drawings carefully to ensure that it provides a complete and accurate description of the invention(s).

Please feel free to supplement, debate, correct, annotate, or modify any part of the application, as may be required for accuracy and completeness. In the specification, I have added various questions for discussion with you. Following your review, please contact me with your comments so that we may complete the application for final review and signature. Attached is an "Inventor Information Sheet" that provides a brief explanation of the parts of a utility patent application under the laws of the United States, as well as the duty of disclosure, and inventorship.

I am presently planning on filing the application prior to the NASS meeting beginning on October 21. If you get the chance to review this draft application within the next week or so, we should have plenty of time to prepare the final draft, execute formal papers, and file the application by the target date.

Alex is presently preparing formal drawings that we will file with the Patent Office - he may have some questions for you regarding how to show specific embodiments in the coming week or so.

I look forward to receiving any comments, changes, or suggestions that you may have and discussing this patent application with you at your earliest convenience.

Thanks,
Jeff



Draft Application.pdf
(2 MB)



Inventor Information
Sheet.pdf...

Jeffrey S. Gundersen
Foley & Lardner
777 E. Wisconsin Ave.
Milwaukee, WI 53202-5306
(414) 297-5897 (direct)
(414) 297-4900 (fax)
jgundersen@foleylaw.com

NOTE: The information transmitted in this correspondence is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you receive this correspondence in error, please contact the sender and delete the material from any computer.

October 13, 2003

VIA FED EX

WRITER'S DIRECT LINE
414.297.5897
jgundersen@foleylaw.com EMAIL

CLIENT/MATTER NUMBER
029815-0103

Dr. Patrick J. Sweeney
Spinal Generations
20060 Governors Drive
Suite 300
Olympia Fields, IL 60461-1029

Re: U.S. Patent Application
Title: VERTEBRAL PROSTHESIS
Inventor(s): Sweeney, Patrick J.
Our Ref.: 029815-0103

Dear Dr. Sweeney:

Enclosed please find the final draft of the above-referenced patent application. I have also enclosed a Declaration that requires your signature.

Please thoroughly read the patent application, including the specification, claims, and drawings, to ensure that it provides an accurate and complete description of the invention. The written description should be sufficiently complete to enable someone of ordinary skill in the art to make and use the invention. The application must describe the "best mode" contemplated by the inventor for carrying out the invention, i.e., in order to obtain a valid patent, no important details about the preferred embodiment of the invention can be withheld as a trade secret. If, after review of the application, you find that anything in the application is incomplete, inaccurate, untrue, or possibly misleading, please contact me immediately so we can discuss the matter. If any typographical, grammatical, or other minor formal errors are found, please note them in a separate memo to me such that I can correct them by amendment at a later date.

If everything appears to be in order, please read, sign, and date the Declaration at the colored tags. By executing this document, you will be verifying the originality of your invention and acknowledging your duty to disclose to the U.S. Patent and Trademark Office any information of which you are aware that could be material to the examination of the application. Material information could include patents, brochures and other publications (including those authored by a competitor, inventor, or co-worker), published industry standards, as well as information on possible prior uses of the invention, prior sales or offers to sell the invention, prior knowledge of the invention by others, prior invention by another, inventorship conflicts, and the like. This duty of disclosure is an important requirement of the law, and continues

001.1506798.1

FOLEY LARDNER

October 13, 2003

Page 2

throughout the entire prosecution of the patent application until the application issues as a patent. Note that the Declaration is signed under penalty of perjury, so careful consideration should be paid to its contents before signing. Also note that the Declaration should remain attached to the patent application.

After signing the Declaration, please return this patent application and the Declaration to me as soon as possible, so that I can file the application with the U.S. Patent and Trademark Office. I will provide you with copies of the application and formal papers upon filing.

If you have any questions regarding any of the above, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jeffrey S. Gundersen', written over a horizontal line.

Jeffrey S. Gundersen

Enclosure(s)

cc: Mark A. Kassel